

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY FIRST DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 23817 of 2004

Between:

B. Veeraiah, S/o Jamalaiah, Hindu.
R/o K.M. Banjar Penuballi Mandal, Khammam District.

..... PETITIONER

AND

- 1 The Government of Andhra Pradesh, rep. by its Secretary ,
Department of Prohibition and Excise, Secretariat, Hyderabad.
- 2 The Commissioner, Department of Prohibition and Excise, Govt. of A.P.,
Hyderabad.
- 3 The Deputy Commissioner, Prohibition and Excise, Warangal, Warangal
District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ order or direction more one in the nature of Writ of Mandamus declaring the action of the respondents No.1 in not passing any interim orders on the Stay petition and kept pending in revision with him and seizing the vehicle Auto rickshaw bearing No. AP 20 U 7434 of the petitioner in CR.No. 9078/2004/CPE/D4 dt. 16-9-2004 of the 2nd respondent is illegal and arbitrary.

Counsel for the Petitioner: MR.KILARUKHADER BABA

Counsel for the Respondents: GP FOR PROHIBITION & EXCISE

The Court at the stage of admission made the following ORDER:

Petitioner claims to be the owner of an auto rickshaw bearing No.AP 20U 7434. It was seized by the excise officials on the ground that it was used in transporting black jaggery and alum. The interim custody of the same was given to the petitioner, on his furnishing bank guarantee for a sum of Rs.5,000/- . Thereafter, the Deputy Commissioner of Prohibition & Excise, the third respondent, passed the order confiscating the auto rickshaw. Aggrieved thereby, the petitioner preferred an appeal before the second respondent. The appeal was rejected through orders dated 16.09.2004. The petitioner claims that he filed a revision before the first respondent, together with an application for stay, and that no orders have been passed so far. He alleges that the officials are taking steps to seize the auto, on the ground that no interim orders have been passed by the first respondent.

Heard learned counsel for the petitioner and learned Government Pleader for Prohibition & Excise.

Since a revision preferred by the petitioner before the first respondent is pending, this Court is not inclined to examine the various contentions urged on behalf of the petitioner. Suffice it to say that once a revision is pending, the seizure of the auto rickshaw would result in hardship to the petitioner. It was released to him on certain conditions. The interests of the Department as well as the petitioner would be protected, if the petitioner is permitted to retain the

custody of the auto rickshaw, subject to the same terms and conditions, as imposed while releasing it.

Hence, the writ petition is disposed of directing that the interim custody of the auto rickshaw in question shall be permitted to be with the petitioner on his complying with the conditions that were imposed while releasing the same. No order as to costs.

21.12.2004

Note:

Issue CC in three days

(BO)

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To

- 1 The Secretary, Government of Andhra Pradesh,
Department of Prohibition and Excise, Secretariat, Hyderabad.
- 2 The Commissioner, Department of Prohibition and Excise, Govt. of
A.P., Hyderabad.
- 3 The Deputy Commissioner, Prohibition and Excise, Warangal,
Warangal District.
- 4 Two C.Cs. to the Government Pleader for Prohibition and Excise,
High Court Buildings, A.P., Hyderabad, (OUT).
- 5 Two C.D. Copies.